

### REMARKS

Applicant respectfully requests that this Preliminary Amendment be entered in this case before the calculation of fees and before examination of the subject application.

### Claims

Claims 1-26 have been canceled without prejudice or disclaimer of the subject matter therein. Applicant reserves the right to prosecute, in one or more patent applications, the canceled claims, the claims to non-elected inventions, the claims as originally filed, and any other claims supported by the specification.

New claims 27-61 have been introduced. No new matter is added.

### Support

Support for the new claims is either obvious, or is as described in the text below. Particularly, support for the recitation of "five single amino acid substitutions, deletions or additions" may be found, for example, at page 7, lines 10-11. Support for compositions of the isolated polypeptide which include an adjuvant recited in the claims may be found, for example, at page 42, lines 15-20. Support for the stringent hybridization conditions may be found, for example, at page 15, lines 15-19. Support for the recitation of sequence relatedness such as "wherein the first polynucleotide sequence is identical to SEQ ID NO:1, 3, 5, or 7, except that, over the entire length corresponding to SEQ ID NO:1,  $n_n$  nucleotides are substituted, inserted or deleted, wherein  $n_n$  satisfies the following expression

$$n_n \leq x_n - (x_n \bullet y)$$

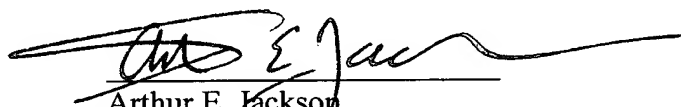
wherein  $x_n$  is the total number of nucleotides in SEQ ID NO:1, 3, 5, or 7,  $y$  is at least 0.90, and wherein any non-integer product of  $x_n$  and  $y$  is rounded down to the nearest integer before subtracting the product from  $x_n$ " may be found in the specification, for example, at page 45, line 27 through page 46, line 23. Support for the recitation of "wherein the immune response recognizes an antigen having molecular weight 17-18kD (by SDS PAGE) in *Moraxella catarrhalis* strains 2904, 2905, 2906, 2907, 2908, 2909, 2910, 2911, 2912, 2913, 2926, 2931, 2956, 2960, 2969, and 2975" may be found, for example, at page 69, lines 11-14 and Figure 7. Support for the recitation "wherein the immunogenic fragment comprises CNEEAWSQNRRAELSY (SEQ ID NO:13) or YTGVAPLVDNDETV (SEQ ID NO:14)"

may be found for example at page 70, lines 4-5.

**Closing Remarks**

Entry of this Preliminary Amendment prior to calculation of fees and Examination and Allowance of the pending claims are respectfully requested.

Respectfully submitted,



Arthur E. Jackson  
Registration No. 34,354  
Allen Bloom  
Registration No. 29,135  
Attorneys for Applicant

DECHERT PRICE & RHOADS  
Princeton Pike Corporate Center  
PO Box 5218  
Princeton, New Jersey 08543-5218  
Allen Bloom (609) 620-3214  
Arthur E. Jackson (609) 620-3254  
Fax: (609) 620-3259  
Attn: Allen Bloom, Esq.  
(609) 620-3214

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